

Appl. No. 09/493,984
Amdt. dated May 12, 2004
Reply to Office Action of February 27, 2004

PATENT

REMARKS/ARGUMENTS

Amendments

The claims are modified in the amendment. More specifically, claim 3 has been amended; claim 20 was previously canceled; and no new claims have been added. Therefore, claims 1-19 and 21-23 are present for examination. No new matter is added by these amendments. Applicant respectfully requests reconsideration of this application as amended.

Citation of Foreign Language References

Applicants note initially that one of the references used in the rejections is in Japanese without even an abstract provided in English. Japanese Patent No. JP409311854A to Yoneda. In a recent (nonprecedential) opinion, a panel of the Board of Patent Appeals and Interferences provided the following advice:

In the event a reference is in a foreign language, if the applicant does not wish to expend resources to obtain a translation, the applicant may wish to request the examiner to supply a translation. If a translation is not supplied by the examiner, the applicant may wish to consider seeking supervisory relief by way of a petition (37 CFR § 1.181) to have the examiner directed to obtain and supply a translation. Ex Parte Jones, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001); See also Ex Parte Gavin, 62 USPQ2d 1680, 1684 (Bd. Pat. App. & Inter. 2001).

In the interest of advancing prosecution of the application, Applicants provide the following remarks based on a best understanding of the reference as supplied; in the event a rejection is maintained in light of a foreign-language reference, however, Applicants request that an English translation be supplied (see MPEP 901.05(d)) so that it may be fully considered.

35 U.S.C. §103 Rejection, Banker '938, Fischer and Yoneda

The Office Action has rejected claims 1, 3, 6, 8, 11, 12 and 13 under 35 U.S.C. §103(a) as being unpatentable over the cited portions of U.S. Patent No. 6,005,938 to Banker et al. (hereinafter "Banker '938") in view of the cited portions of U.S. Patent No. 5,005,200 to

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Fischer (hereinafter "Fischer") in further view of Japanese Patent No. JP409311854A to Yoneda (hereinafter "Yoneda"). It is not clear that any combination of the Banker '938, Fischer and Yoneda references would suggest sending the signature separately from at least the first and second information as required by the claims.

According to the Office Action, Yoneda teaches separation of the signature from the payload, but both Banker '938 and Fischer keep and presumably send the signature integral with the payload. Yoneda teaches separation of the signature from the payload, but the context is unclear. In combining these references, it would seem that Yoneda would keep the signature and payload separate, but with the teachings of Banker '938 and Fischer would combine them for transport. Clearly, the signature and payload are separate at some point, but the salient question is whether they are separated during transport. Banker '938 and Fischer would seem to require that they be integral during transport. The details of Yoneda are not clear as to whether that reference contemplates separate transport.

In any event, amended claim 3 requires that the signature be integral with one piece of information. As a logical matter, this combination of references cannot suggest both separation as claims 1 and 8 require and integration as claim 3 requires as set forth in the Office Action. To use the references in this way demonstrates that hindsight reconstruction is the only logic that can make sense of teaching opposing propositions from the same references. Reconsideration is respectfully requested.

35 U.S.C. §103 Rejection, Banker '938, Banker '364 and Yoneda

The Office Action has rejected claims 14, 15 and 19 under 35 U.S.C. §103(a) as being unpatentable over the cited portions of Banker '938 in view of the cited portions of U.S. Patent No. 5,247,364 to Banker et al. (hereinafter "Banker '364") in further view of Yoneda. Banker '364 is cited for the motive to combine because this reference uses two channels such that only one need be monitored to get the information. This combination would not work as the invention in claim 14 requires both transmission pathways receive their respective information such that the signature could be performed over both pieces. One of ordinary skill in the art

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would not look to Banker '364 for this motive as these teachings would destroy the very function of the claimed invention. Reconsideration is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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